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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

OCT 29 1990

REPLY TO ATTENTION OF:
SCS-TUB-7

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard W. Paulen
Barnes & Thornburg
305 Ameritrust National Bank Building
301 South Main Street
Elkhart, Indiana 46516

RE: C.R. 10 Landfill, Elkhart, Indiana (Himco Dump)

Dear Mr. Paulen:

Thank you for your letter of October 17, 1990 (received here October 25, 1990) in which you informed me of the Agreement for Water Main Extension and Hook Up that your client, Himco Waste Away Services inc., recently entered into with unspecified other parties to provide city water to seven homes. Your assurances that materials have been purchased, that construction will commence during the month of October, and that completion is scheduled to occur prior to the end of November, 1990, are most welcome news. As you know, U.S. EPA has been concerned about the contaminated drinking water in residential wells near the landfill since the agency received the August 8, 1990 report of the Agency for Toxic Substances and Disease Registry (ATSDR). That report recommended the provision of an alternative source of potable water to the seven households whose drinking water wells are contaminated by a plume originating from the Himco Dump Site.

This morning I received a report from the Remedial Project Manager charged with supervision of the Remedial Investigation/Feasibility Study (RI/FS) for the Himco Dump Site. He informed me, inter alia, that the U.S. EPA's contractors for the RI/FS have observed that work has begun on the Water Main Extension and Hook Up. Given the level of concern over the seriousness of the contamination problem, it is most gratifying to receive confirmation that ground has been broken and work begun to remediate the problem and prevent any further endangerment of human health. U.S. EPA wants to be sure that the work begun so promptly will be expeditiously completed.

By our phone conversation this morning I offered to send you a copy of a draft Administrative Order by Consent (Consent Order) for your review on behalf of your client. As I noted then, your

client might find that executing a Consent Order offers certain real advantages. Since your client has already undertaken to do the work involved it might be advantageous to do so under the auspices of a CERCLA order. As you know, the CERCLA statute provides a basis for parties that do remedial work on CERCLA sites to obtain contribution from other potentially responsible parties, 42 USC 9613 (f). Furthermore, the same section affords contribution protection for parties who have resolved their liability to the United States in an administrative settlement, 42 USC 9613 (f)(2).

As you indicated that your client has already contracted to pay for the work required, you may find that your client would receive considerable benefits and no detriment from entering into an Administrative Order by Consent. If your review of the draft Administrative Order enclosed confirms this suggestion, please inform me, and I will be happy to send an Administrative Order by Consent for your client to execute.

Should you have any questions for me in this matter, please feel free to call me at (312) 886-0552.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas C. Nash".

Thomas C. Nash
Assistant Regional Counsel

enclosure: Draft Administrative Order by Consent

bcc: Debbie Fript 230-11 5H
Verneta Simon 230-11 5HS
Jack Barnette 230-11 5HS
Bob Lance 230-11 5HS
Rett Nelson 5CS-TUB-7